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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,773	03/23/2004	Peter Ebner	EBNER ET AL 7	2387

7590 12/12/2006
COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, NY 11576-1696

EXAMINER

KASTLER, SCOTT R

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,773

Applicant(s)

EBNER ET AL.

Examiner

Scott Kastler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/21/2006 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP'619.

JP'619A teaches, in the provided English language translation for example, a hood-type annealing furnace (drawing 1) which can be employed for treating steel strip or wire bunches, with an annealing base (1) for receiving material to be annealed, a protective hood (3) placed on the base in a gas tight manner, a radial blower comprising a blade wheel (4) and guide apparatus (5) enclosing the blade wheel (4), a heat exchanger (8) which is connected on a pressure side of the radial blower and opens on an output side in an annular gap (9) between the guide apparatus (5) and the hood (3), and a deflection device (12), where the heat exchanger is disposed "beneath" (at a lower level than) an annular flange for connecting the hood and base in a gas

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tight manner (see the flange in drawing 1 for example), but not directly beneath the annular flange, and where the flow conduit (7) between the blower and heat exchanger consists of an annular conduit concentric with the annular gap (9) separated by a cylindrical wall (6 forms a wall separating gaps 7 and 9), thereby showing all aspects of the above claims except locating the heat exchanger directly beneath the annular flange. However, the heat exchanger of JP'619 operates in substantially the same manner with substantially the same stated results as the heat exchanger of the instant claims, the only difference being that the heat exchanger of JP'619 is situated on the opposite side of the annular gap (12 in the instant specification and 9 in JP'619) that that instantly claimed. It has been well settled that motivation to shift the location of a component in an apparatus shown by the applied prior art to another equally useful location would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 VI. C. In the instant case, absent any showing of new and unexpected results arising therefrom, motivation to shift the location of the heat exchanger 98) of JP'619 from one side of the annular gap (directly beneath the annealing base adjacent the annular gap) to the other side of the annular gap (directly beneath the annular flange) would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

Response to Arguments

Applicant's arguments, see pages 4-6, filed 11/21/2006, with respect to the rejection(s) of claim(s) 1-3 under 35 USC 102(b) over JP'619 have been fully considered and are persuasive.

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Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made over JP'619 under 35 USC 103(a).

Applicant's argument that by moving the heat exchanger of the instant invention out from directly beneath the annealing base to directly beneath the annular flange, reduces the unfavorable flow conditions produced by the arrangement of JP'619 and provides favorable protective gas cooling without disadvantageously affecting the construction of the annealing base (see applicant's arguments pages 4-6 filed 11/21/2006) is not yet persuasive because it has been well settled argument and conclusory statements alone are insufficient to establish new or unexpected results. However, proper presentation of evidence (in proper affidavit or declarative form) supporting the instantly presented statements and arguments would serve to overcome the instant rejections.

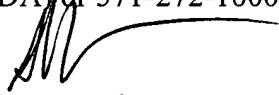
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Scott Kastler
Primary Examiner
Art Unit 1742

sk